IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.MC.No. 2937 of 2007()

CC.643/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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PETITIONER: ACCUSED:

MOIDU, S/O. ABOO, AGED 46 YEARS,
KAYATHEDATHU MEETHAL HOUSE, NEW MAHE.

BY ADV. SRI.P.M.HABEEB
SRI.V.R.NAZAR

RESPONDENT:

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(CRIME NO.482 OF 1997 OF THALASSERY POLICE STATION).

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Cr.M.C.No.2937 of 2007

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Dated this the 20th day of September, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.471 IPC. The petitioner entered appearance before the learned Magistrate and was enlarged on bail. According to the petitioner, he was exempted from personal appearance also. But on the ground that the petitioner did not appear before the learned Magistrate as directed on 4.08.06, the learned Magistrate has issued a warrant of arrest against the petitioner.

2. The learned counsel for the petitioner submits that he is innocent. His absence was not wilful. He had entrusted his counsel to represent him. The petitioner is willing to appear before the learned Magistrate; but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself.

(R.BASANT, JUDGE)

sj